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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,894	12/16/2003	Jung-hoe Kim	030681-610	5705
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EXAMINER				
LENNOX, NATALIE				
ART UNIT		PAPER NUMBER		
2626				
NOTIFICATION DATE		DELIVERY MODE		
05/23/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/735,894

Applicant(s)

KIM ET AL.

Examiner

NATALIE LENNOX

Art Unit

2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Richmond Dorvil/
Supervisory Patent Examiner, Art Unit 2626

Continuation of 11, does NOT place the application in condition for allowance because: Regarding applicant's arguments for the rejections under 35 U.S.C. 112 first paragraph of claims 1 and 6, examiner respectfully disagrees with the applicant given that as claimed "a programmable device" is not provided in the specification. Applicant argued that in page 21, lines 10-11, the specification discloses that the audio stream is stored in an information storage medium, however nowhere it is specified that the programmable device is this information storage medium, in fact there is no "programmable device" even mentioned in the disclosure. As for applicant's arguments that "it would be clear to one of ordinary skill in the art that at least one of the steps carried out in claims 1 and 6 can be carried out on a programmable device," examiner respectfully adds that the fact that steps could be carried out on a programmable device does not eliminate the fact that they could also be performed manually by hand computations. Applicant is claiming a method for encoding and decoding audio data, therefore it is executing a mathematical algorithm by providing a process that is manipulating only numbers (data). Specifying that at least one of the steps is carried out on a programmable device could as well suggest that some calculations are being performed with a hand calculator. For these reasons and the ones provided in previous office actions, the claim rejections under 35 U.S.C. 112 first paragraph and 35 U.S.C. 101, still stand. As for claim rejections under 35 U.S.C. 102 over Park, applicant notes that Park's invention is developed by the same assignee as the present disclosure, however as provided by the statutory basis of a 35 U.S.C. 102 (b) rejection "A person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States." As for the applicant's arguments as provided in Remark's page 5, second paragraph, with respect to the "units of symbols," examiner finds these arguments moot. As already stated in the final Office Action of Feb. 7, 2008, the disclosure provides in page 13, line 23, an example of a symbol formed with the MSBs, the symbol being "1001b," which is the same as the binary number obtained from the quantized sample 9 of page 13, lines 18-20, 1001b. Also page 13, lines 17-18, specifically cites "an example of coding in the case where the number of bits of symbols consisting of MSBs is 4 or less," clearly specifying that the claimed symbols are formed with bits, therefore referring to the group of bits as symbols, binary numbers, or bitstreams, are all acceptable equivalent terms. Further, applicant argues that Park mentions in passing Huffman coding and decoding but that he does not mention it with reference to symbols, however examiner respectfully disagrees given the reasons above. Lastly, in Remark's page 7, applicant argues the 35 U.S.C. 103 rejection citing that "Andrew fails to cure the many above-noted deficiencies of Park," and that therefore "Park and Andrew, either alone or in combination, fail to disclose or suggest all the features of claims 5 and 17." However, examiner disagrees given the reasons stated above.